

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

LULA WILLIAMS *et al.*,

Plaintiff,

Case No. 3:19-cv-00085-REP

v.

MICROBILT CORPORATION *et al.*,

Defendants.

**DEFENDANTS' AMENDED MOTION FOR PERMISSION TO FILE AN  
AMENDED REPLY TO PLAINTIFFS' RESPONSE TO DEFENDANTS' STATEMENT  
OF POSITION REGARDING THEIR OBJECTIONS TO JURISDICTIONAL DISCOVERY**

Defendants MicroBilt Corporation (“MicroBilt”) and Philip Burgess (“Burgess”) (together, MicroBilt and Burgess, “Defendants”), respectfully submit this Amended Motion For Permission To File An Amended Reply To Plaintiffs’ Response To Defendants’ Statement Of Position Regarding Their Objections To Jurisdictional Discovery (this “Amended Motion”). Subsequent to Defendants’ filing of its earlier Motion for Permission to File a Reply (ECF Dkt. 172), Plaintiffs’ counsel has now, pursuant to Rule 41(a), and in response to Defendants’ Rule 11 safe harbor letter (the “Safe Harbor Letter”) and draft Rule 11 motion for sanctions, voluntarily withdrawn the class action complaint (the “Dismissal Filing”) filed in the *Mann* litigation, Case No. 3:20-cv-00820 (the “Class Complaint”), that Plaintiffs’ counsel had previously relied upon and attached as Exh. 2 to their Response (ECF Dkt. 170).

In fact, Defendants have filed their Rule 11 Motion (ECf Dkt. 15) in the *Mann* litigation seeking the mandatory sanctions and conclusively demonstrating that not a single penny of any revenue from any company or any loan was connected in any way whatsoever to Burgess as regards the allegations in the Class Complaint. Yet, in spite of the utter lack of evidence to support

their allegations in *Mann*, Plaintiffs' counsel refuses to remove their reliance in this case upon this scurrilous Class Complaint or correct the false allegation asserted in the Response that Mr. Burgess had an alleged "directing" and "central" role in a purported RICO conspiracy that Plaintiffs' counsel is still asserting as truth in the Dismissal Filing and its sole footnote. Once this Court strikes from consideration the Class Complaint and the repetitious allegations made in the Dismissal Filing, Plaintiffs have nothing to support their now discredited allegations against Burgess.

Despite Defendants' specific request in the Safe Harbor Letter that plaintiffs' counsel advise this Court immediately that the Class Complaint had been dismissed (*see* **Exhibit A** to the draft Amended Reply attached as **Exhibit 1** to the accompanying Amended Memorandum), Plaintiffs' counsel has failed to act and instead is willing for this Court to consider the baseless allegations of the Class Complaint with regard to the pending Jurisdictional Discovery controversy. Such a result is patently improper and unfair to Defendants and cannot be permitted to occur.

In order for the Court to fully appreciate the sanctionable circumstances surrounding the Class Complaint and now the Dismissal Filing, and for the reasons set forth in the Amended Memorandum being filed herewith and exhibits attached thereto, including the draft Amended Reply, Defendants respectfully request that this Court grant Defendants' amended request for permission to file an Amended Reply to Plaintiffs' Response (ECF Dkt. 170) to Defendants' Statement of Position (ECF Dkt. 169) regarding Defendants' objections to the Jurisdictional Discovery. Defendants further seek sanctions for the fees and costs associated with filing the earlier Motion for Permission and now this Amended Motion for Permission.

Dated: December 8, 2020

Respectfully submitted,

By /s/ Wyatt B. Durette, Jr.  
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*Attorneys for MicroBilt Corporation &  
Philip Burgess*

**CERTIFICATE OF SERVICE**

I hereby certify that on December 8, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will automatically e-mail notification of such filing to all counsel of record.

To the best of my knowledge, there are no other attorneys or parties who require service by U.S. Mail.

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